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WRITER'S DIRECT LINE: _____

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MAR 15 1994

FCC - MAIL ROOM

March 14, 1994

VIA FEDERAL EXPRESS

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: Town of Palm Beach
Cable Television Rate Regulation
Our File No. 13156.8

Ladies and Gentlemen:

Enclosed please find a Motion for Extension of Time filed on behalf of the Town of Palm Beach, Florida, a local cable television franchising authority for an extension of the effective time requirement of 47 C.F.R. §76.933.

The Commission's decision to extend the Cable Television rate freeze until May 15, 1994, has given rise to a situation whereby local franchising authorities, having served final notice, in anticipation of the rate freeze expiring on February 15, 1994, are now subject to burdens not imposed on those authorities that have delayed serving final notice.

In order to allow the Town of Palm Beach, a small local franchising authority (population approximately 10,000) to avoid the undue hardship of regulating cable television rates while the rate regulation rules are subject to substantial change, consistent with the Commission's intent, and Commissioner Barret's separate supporting statement, the Town must be relieved of the deadlines imposed by 47 C.F.R. §76.933 as quickly as practicable. Therefore, we respectfully request the Commission respond to the Town of Palm Beach's Motion for an Extension of Time on an expedited basis.

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MAR 15 1994

Office of the Secretary
March 14, 1994
Page 2

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The Town of Palm Beach, as the certified franchising authority, has until April 17, 1994, in which to grant or deny the benchmark rates submitted by the cable operator.

On behalf of the Town of Palm Beach, we appreciate your attention to this matter.

Sincerely,

JONES, FOSTER, JOHNSTON & STUBBS, P.A.



John C. Randolph

JCR/ssm

Enclosure

cc: Chairman Reed Hundt
Commissioner James H. Quello
Commissioner Andrew C. Barret
Alexandra Wilson, Acting Chief
Bruce Romano, Acting Assistant Chief
Mary Ellen Burns, Chief
James W. Olson, Chief
John M. Spencer
Leonard Rozek (Comcast Cablevision)
Robert J. Doney, Town Manager, Town of Palm Beach

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

FEB 15 1994

FCC - MAIL ROOM

In Re:

Implementation of Sections
of the Cable Television
Consumer Protection and
Competition Act of 1992

Rate Regulation

MM Docket No. 92-266

To: The Commission

MOTION FOR EXTENSION OF TIME

The Town of Palm Beach, Florida, by and through its undersigned attorney, respectfully requests that the Commission toll the start of the Town's obligation to review basic cable rates and equipment costs, pursuant to Rule 76.933¹, until the expiration of the cable rate freeze on May 15, 1994², or any subsequent freeze expiration date determined by the Commission.

The Town of Palm Beach, having a population of approximately 10,000, has certified as the local franchising authority to regulate basic cable television rates in order to protect its resident subscribers from unjustifiable rate increases.

In compliance with Commission rules and regulations, promulgated pursuant to the Cable Television Consumer Protection

¹ 47 C.F.R. §76.933 requires the franchising authority to grant or deny the cable operator's benchmark rate request within 30 days of receipt or, where additional information is required, within an additional 90 days.

² "February 8, 1994, Rate Freeze Extension Order" extends the Cable Television Rate Freeze from February 15, 1994, until May 15, 1994. MM Docket No. 92-266, FCC 94-33. [Hereafter referred to as Order].

and Competition Act of 1992, the Town took all actions necessary to insure that the local cable operator, Comcast Cablevision of West Palm Beach, Inc., would be subject to rate regulation on February 15, 1994, the date on which the Commission had ordered the rate freeze lifted.³ The Town has limited resources available to devote to cable television regulation.

Based on the assumption that the rate freeze would be lifted on February 15, 1994, the Town served final notice on Comcast on November 16, 1994, thereby triggering the cable operator's obligation to submit a rate request and the Town's obligation to grant or deny the request in conformance with the Commission's benchmark methodology and associated procedures pursuant to Rule 76.533. Under this procedure, the Town of Palm Beach must grant or deny the Comcast rate request no later than April 17, 1994.

The Commission's Order extending the rate freeze stated purpose was to "enable affected parties to familiarize themselves with any modifications to the cable rate regulations before the freeze is lifted."⁴ In addition, the Order expressly provided cable operators with the opportunity to file petitions for relief from the freeze based on a showing of severe economic hardship. By contrast, there exists no corresponding provision providing franchising authorities with the opportunity to file for relief of

³ See "November 10 Extension Order" extending the Cable Television Rate Freeze from November 15, 1993, until February 15, 1994. MM Docket No. 92-266, FCC 93-494.

⁴ See "February 8. Rate Freeze Extension Order" at paragraph 1.

regulatory obligations incurred prior to the Commission's Order extending the freeze.

This unequal treatment of cable operators and franchising authorities seems contrary to the Commission's intent in ordering the freeze extension.⁵

Absent the requested extension of time, the Town of Palm Beach will suffer significant hardships as a result of its reliance on the February 15, 1994, freeze expiration date since the Town will be required to proceed to evaluate the benchmark rate request, determine the adequacy of the submission and make the clerical decision of approving or denying the proposed rate structure. This matter is further complicated by the benchmark rules still being subject to significant and substantial change by the Commission on reconsideration. This places the Town of Palm Beach in a costly and untenable position and it is being prejudiced as a result of having gone forward under the Act in compliance with its regulations.

The Town of Palm Beach has contacted Comcast Cablevision of West Palm Beach, Inc. in regard to this matter and is authorized to represent on behalf of Comcast that Comcast has no objection to the filing of this Motion and the Town's request to extend the effective date of the Town's initial obligations. Accordingly, the Town of Palm Beach respectfully requests that the effective date of

⁵ The Commission stated "we believe that this brief extension of the freeze will ensure that local regulators have been afforded a sufficient time to file for certification and prepare for rate regulation under any modified rules that may be adopted. Id. at paragraph 6.

the Town of Palm Beach's initial obligations under Rule 76.933 be extended until the date the cable television rate freeze expires as ordered by the Commission. Further, because the deadline imposed upon the Town, pursuant to its following the regulations set forth in the Act, is April 17, 1994, the Town requests that this matter be expedited.

Dated this 14th day of March, 1994.

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John C. Randolph
Attorney for Town of Palm Beach

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion for Extension of Time submitted on behalf of the Town of Palm Beach, Florida, has been sent by U.S. Mail, first class postage prepaid, to the following persons, this 14th day of March, 1994:

Chairman Reed Hundt
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Commissioner Andrew C. Barret
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Alexandra Wilson, Acting Chief
Cable Television Bureau
2033 M Street, NW
Room 918
Washington, D.C. 20554

Bruce Romano, Acting Assistant Chief
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Mary Ellen Burns, Chief
Cable Bureau's Consumer Protection Division
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Mr. James W. Olson, Chief
Cable Services Bureau's Competition Division
1919 M Street, N.W.
Washington, D.C. 20554

Mr. John M. Spencer
2033 M Street, N.W.
Room 700C
Washington, D.C. 20554

Mr. Leonard Rozek
Area Vice President
Comcast Cablevision of West Palm Beach, Inc.
1401 Northpoint Parkway
West Palm Beach, Florida 33407

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